



Senate

General Assembly

File No. 363

February Session, 2004

Substitute Senate Bill No. 550

Senate, March 31, 2004

The Committee on Environment reported through SEN. WILLIAMS of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE MANAGEMENT OF STATE SHELLFISH GROUNDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 26-194 of the general statutes, as amended by
2 section 2 of public act 03-263, is repealed and the following is
3 substituted in lieu thereof (*Effective June 1, 2004*):

4 (a) The Commissioner of Agriculture may lease in the name of the
5 state, under such regulations as he may prescribe and for a period not
6 longer than ten years, all shellfish areas that have been conveyed to the
7 state or placed under state jurisdiction by the town of West Haven and
8 any undesignated grounds, within the exclusive jurisdiction of the
9 state, for the purpose of planting and cultivating shellfish. The
10 authority herein conferred shall include the Cornell Reef, Portchester,
11 Great Captain's Island, Field Point and Greenwich Point natural beds
12 as located and described in section 3295 of the general statutes,
13 revision of 1918. Any person desiring to lease grounds for such

14 purpose shall make application in writing to the commissioner and all
15 grounds leased by authority of the provisions of this section shall be
16 leased to the highest responsible bidder, for a minimum fee of [two]
17 four dollars per acre. Such lease or lease renewal shall require the
18 lessee to make a good faith effort to cultivate and harvest shellfish
19 from the leased area. Such lease or lease renewal shall prohibit the
20 lessee from entering a contract whereby the lessee agrees not to
21 cultivate and harvest shellfish for any period of time. No lessee may
22 enter an agreement with a third party that will prevent the lessee from
23 carrying out the lessee's obligations under the lease unless the
24 Department of Agriculture and the Attorney General have approved
25 such agreement. The form of such application and lease shall be
26 approved by the Attorney General, and all such leases shall be
27 recorded in the records of the commissioner. No lease shall be granted
28 to a resident of a state which does not lease shellfish grounds to
29 residents of this state, except that any nonresident who was granted a
30 lease on or before October 1, 1985, may, upon the expiration of such
31 lease, apply for a renewal or further lease as provided in this section.
32 The commissioner shall grant any such lease to nonresidents upon the
33 same terms and conditions as to residents of this state. Any lessee or
34 holder of [oyster ground] shellfish grounds, on the expiration of any
35 lease thereof which has been or which may be granted, having fulfilled
36 all of such lessee's or holder's obligations under the lease shall, upon
37 application to the commissioner, have [the] preference in the reletting
38 of such ground for a like term to that granted in the original lease,
39 [unless such applicant, at the time for granting such application, is]
40 excluding the rental fee, which shall not be less than the minimum fee
41 per acre as provided in this subsection. A lease renewal shall not be
42 granted if the applicant is in arrears for rent on the original lease of
43 such [ground] grounds. Such application for such renewal or further
44 lease shall be granted without notice or advertisement of the pendency
45 thereof; provided no renewal or further lease of such ground shall be
46 granted when the commissioner, for cause, ceases to lease such ground
47 for [oyster] shellfish culture. All assignments or transfers of leases shall
48 be subject to the approval of the commissioner and shall be recorded in

49 his records. Any person who interferes with, annoys or molests
50 another in the enjoyment of any lease authorized by the provisions of
51 this section shall be subject to the penalties provided in section 26-237.
52 The provisions of sections 26-212, as amended, 26-215, as amended,
53 and 26-232, as amended, shall not apply to any shellfish grounds
54 leased pursuant to the provisions of this section.

55 (b) Upon request of a lessee, the commissioner may divide or
56 consolidate shellfish grounds leased by such lessee, if the
57 commissioner determines such division or consolidation to be in the
58 best interests of the state. The minimum fee per acre shall apply to
59 shellfish grounds divided or consolidated pursuant to this subsection.

60 ~~[(b)]~~ (c) Notwithstanding the provisions of subsection (a) of this
61 section, any owner of a utility line or public use structure that impacts
62 on a leased area shall pay to the lessee the costs of removing or
63 relocating any shellfish. Nothing in this subsection shall be construed
64 to prohibit the state or any lessee from recovering damages incurred
65 by the state or the lessee caused by the installation, construction or
66 presence of such utility line or public use structure.

67 ~~[(c)]~~ (d) The commissioner may designate an agent within the
68 department to exercise the authority of said commissioner under this
69 section.

70 Sec. 2. Section 26-215 of the general statutes is repealed and the
71 following is substituted in lieu thereof (*Effective June 1, 2004*):

72 (a) There shall not be used on any licensed boat any device operated
73 otherwise than by hand power, for hoisting or operating dredges or
74 other implements for gathering oysters, clams, mussels or other
75 shellfish or oyster shells. No person shall use any dredge or other
76 contrivance weighing more than thirty pounds, exclusive of the net or
77 bag, or with a capacity of more than one and one-half bushels in taking
78 up or dredging for oysters, clams, mussels or other shellfish or oyster
79 shells in any of the waters of the state, except upon private designated
80 grounds. Nothing herein shall be construed to prevent the use of

81 power in taking up or dredging for oysters, clams, mussels or other
82 shellfish or shells on private designated grounds by the owners
83 thereof, or to prevent the use of excavators for deepening the water in
84 places where there are no natural oyster or clam beds, or where such
85 beds have not existed within ten years, by digging or removing the
86 material, permission to use excavators being first given by the
87 Commissioner of Agriculture, which permission shall not be given
88 until after a public notice of at least two weeks of the time when and
89 place where he will hear all parties desiring to be heard upon such
90 application, which notice shall be posted in the office of the town clerk
91 of the town where such grounds are located.

92 (b) Notwithstanding the provisions of subsection (a) of this section,
93 the Commissioner of Agriculture, at the request of the Director of the
94 Bureau of Aquaculture of the Department of Agriculture or at the
95 request of a local shellfish commission established pursuant to section
96 26-257a, as amended, may allow any person to use a dredge or other
97 contrivance weighing more than thirty pounds, exclusive of the net
98 and bag, with a capacity of not more than five bushels, for the purpose
99 of cultivation, enhancement or restoration of natural oyster beds.

100 (c) The Commissioner of Agriculture, or said commissioner's
101 designee, shall approve any dredging pursuant to subsection (b) of this
102 section and shall designate cultivation, enhancement and restoration
103 areas, dredging periods and limitations and fees to be paid by persons
104 operating dredges pursuant to subsection (b) of this section. Local
105 shellfish commissions with jurisdiction pursuant to section 26-257a, as
106 amended, shall administer such dredging pursuant to section 26-257a,
107 as amended, and shall designate areas for replanting oysters pursuant
108 to subsection (b) of this section.

109 Sec. 3. *(Effective from passage)* The Director of the Bureau of
110 Aquaculture of the Department of Agriculture shall study the effects of
111 disease, pollution, siltation and storm damage on oyster populations.
112 The director shall report, pursuant to the provisions of section 11-4a of
113 the general statutes, the results of such study to the joint standing

114 committee of the General Assembly having cognizance of matters
115 relating to the environment, not later than January 1, 2006.

This act shall take effect as follows:	
Section 1	<i>June 1, 2004</i>
Sec. 2	<i>June 1, 2004</i>
Sec. 3	<i>from passage</i>

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Department of Agriculture	GF - Cost/Revenue	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect
Milford; New Haven; West Haven; Westport	Minimal Revenue Gain

Explanation

Increasing the minimum per acre fee for a shellfish lease from \$2 to \$4 is anticipated to raise revenue for renewals by approximately \$27,000 between the state and Milford, New Haven, West Haven and Westport.

Allowing for the division of shellfish grounds leased would increase flexibility in the administration of the program and allowing for consolidation would minimally reduce paper work to the Department of Agriculture (DOAG).

The bill requires the Bureau of Aquaculture in the DOAG to study the effects of disease, pollution, siltation and storm drainage on oyster populations. The Army Corps of Engineers is initiating a \$100,000 study on this matter and to the extent that this joint study will satisfy the bills requirements, DOAG will only incur minimal additional costs associated with the use of their equipment, including fuel for boats.

Provisions in the bill concerning dredging have no fiscal impact.

OLR Bill Analysis

sSB 550

AN ACT CONCERNING THE MANAGEMENT OF STATE SHELLFISH GROUNDS**SUMMARY:**

This bill increases the minimum fee the state charges for leasing shellfish grounds from \$2 to \$4 dollars per acre for both new leases and renewals. The bill specifies that, upon termination of a lease, a lessee or holder must have met his obligations in order to receive preference in reletting the grounds.

The bill allows the agriculture commissioner, when a lessee requests, to divide or or consolidate the lessee's grounds, if doing so is in the state's best interest. (The minimum \$4 fee applies to shellfish grounds the commissioner divides or consolidates.)

It allows the commissioner, at the request of the Director of the Bureau of Aquaculture or a local shellfish commission, to allow anyone to use a dredge or other device (1) weighing more than 30 pounds (not including a net and bag) and (2) with a capacity of five bushels or less for cultivation, enhancement, or restoration of natural oyster beds. By law, dredges or other devices used for these purposes may not be over 30 pounds or have a capacity of more than one and one-half bushels.

The commissioner, or his designee, must approve such dredging and designate:

1. cultivation, enhancement, and restoration areas;
2. dredging periods;
3. limitations; and
4. dredging fees.

The bill requires local shellfish commissions to administer such dredging and to designate areas for replanting oysters in the areas of their jurisdiction.

The bill also requires the aquaculture bureau director to study the

effects of disease, pollution, siltation, and storm damage on oyster populations. He must report his results to the Environment Committee by January 1, 2006.

The bill makes several minor and technical changes.

EFFECTIVE DATE: June 1, 2004, except for the study, which is effective upon passage.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0